IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 13229 of 2004

Between:

M/s.Mercury Marketing (P).Ltd., Hanumanpet,Vijayawada, Krishna District. rep. By its Managing Director Sri M.V.G.Krishna.

..... PETITIONER

AND

1 Addl.Commissioner (CT)Legal (FAC), A.P.at Nampally, Hyderabad.
2 Commercial Tax officer, Seetharamapuram, Vijayawada.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or writs order or direction declaring the order passed by the 1st respondent in CCT's Ref.No. LV (2)/1888/2003 dt.2-7-2004 as illegal, arbitrary and set aside the same and consequently restrain the 2nd respondent from collecting the disputed tax for the year 1995-96 pending appeal before the Tribunal.

Counsel for the Petitioner:MR.KUNUKU DURGAPRASAD, Advocate.

Counsel for the Respondent No.: GP FOR COMMERCIAL TAXES.

The Court made the following :

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ORDER : (Per Sri Bilal Nazki, J).

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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(BILAL NAZKI, J)

28th July, 2004.

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(S.ANANDA REDDY, J)

ajr.

To

1 The Addl.Commissioner (CT)Legal (FAC), A.P.at Nampally, Hyderabad.
2 The Commercial Tax officer, Seetharamapuram, Vijayawada.

3 Two C.Cs. to the G.P. for Commercial Taxes, High Court buildings,

Hyderabad (O.U.T.)

4 Two C.D. copies.